

Adoption of Procedures for Contracting for Consultant Services and Architectural and Engineering Services for Specified Functions

Requested Action: Adopt contracting procedures included as Attachment 2 as required by SB1450.

Summary

This item proposes to adopt contracting procedures in compliance with new law. SB 1450 (Attachment 1) expressly authorizes the council to contract for consultant services and architectural and engineering services to assist with preparation of the Delta Plan and performance of certain responsibilities of the council. The bill exempts those contracts from specified provisions of existing law governing public contracting, but requires the council to first adopt relevant contracting procedures.

Background

SB 1450 was passed by the legislature and signed by the Governor last month. It was an urgency bill and took effect immediately. Water Code section 85213 (as added by SB 1450, Ch.336, Stats. 2010) authorizes the council to contract for consultant services and for architectural and engineering services, to assist the council with all of the following functions ("specified functions"):

1. Preparation of the Delta Plan and associated environmental review.
2. Performance of the council's responsibilities, or the responsibilities of the Delta Independent Science Board, with respect to the Bay Delta Conservation Plan.
3. Determination of the consistency of state and local public agency actions with the Delta Plan.
4. Performance of scientific review to inform water and environmental decision making in the Delta.

Water Code section 85213(b) requires the council, prior to entering into contracts for consultant services for any of the specified functions, to first obtain and evaluate at least 3 bids or proposals pursuant to a competitive process, but exempts any such contracts from the State Contract Act and other provisions governing public contracting.

Water Code section 85213(b) requires the council, in entering into contracts for architectural and engineering services for any of the specified functions, to do so consistent with statutory provisions governing architectural and engineering contracts generally (Government Code section 4525 et seq.), but exempts the council from the

statutory requirement in Government Code section 4526 to adopt regulations prior to contracting for those types of services.

These contracting exemptions do not affect or otherwise diminish the applicability of conflict of interest prohibitions (e.g. Government Code sections 1090, 4526, and 87100), which apply to contracts for any of the specified functions.

Water Code section 85213 (b) requires the council to establish procedures for contracting for consultant services and for architectural and engineering services for specified functions, which procedures shall be exempt from the Administrative Procedures Act.

Fiscal Information

Not Applicable

List of Attachments

Attachment 1 - SB 1450 Senate Bill (Ch. 336, Stats. 2010)

Attachment 2 - Procedures for Contracting for Consultant Services and Architectural and Engineering Services for Specified Functions

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